

REMARKS

STATUS OF THE CLAIMS

Claims 1, 2, 4, 5, 7, 8, 10, 11, 13-15, 21-26, 31, 34, 35 and 38-47 are pending. Claims 1, 2, 4, 5, 7, 8, 10, 11, 13-15, 21-26, 31, 35 and 38-47 have been withdrawn from consideration and claim 34 has been examined. By virtue of the present amendment, claim 34 has been amended to make explicit that the first or second polypeptide comprises a non-naturally occurring binding domain, as described throughout the specification as filed, for example, on page 3, lines 28-32 and page 12, lines 7-16.

In light of the fact that this amendment obviates the rejection under 35 U.S.C. § 101, thereby simplifying the issues in this case, entry after final is requested.

Applicants reiterate their request for rejoinder of method claims 1, 2, 4, 5, 7, 8, 10, 11, 13-15, 21-24, 31, 35, 38-42, 46 and 47 upon allowance of claim 34.

REJECTIONS WITHDRAWN

Applicants note with appreciation that the rejections of claim 34 under 35 U.S.C. § 112 (new matter) and § 102 based on McEwan have been withdrawn. With respect to the new matter rejection, Applicants appreciate the Examiner's noting on the record that the recitation that the ligand binds to both the first and second polypeptides of the system did not constitute new matter.

35 U.S.C. § 101

Examined claim 34 was newly rejected under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter. *See* page 3 of the Final Office Action. In particular, previous amendment of the claim to remove the process steps was alleged to make the claim indistinguishable from naturally occurring switching systems. *Id.*

Claim 34 has been amended as shown above to indicate that the first or second polypeptide comprises a non-naturally occurring binding domain, as described throughout the specification as filed, for example on page 3, lines 28-32 and page 12, lines 7-16. Accordingly, claim 34 indicates the "hand of man" and the rejection can be properly withdrawn.

35 U.S.C. § 102

Examined claim 34 was newly rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Porter (1997); Kobayashi; and Perkins. *See* pages 4-7 of the Final Office

Action. These references are cited for teaching complexes of the naturally occurring C2H2 binding protein Sp1. Porter is stated to teach complexes between Sp1 and ER whose formation is modulated by estrogen; Kobayashi is stated to teach complexes between Sp1, AhR, and Arnt whose formation is modulated by 3-MC (Kobayashi), and Perkins is stated to teach complexes between Sp1 and NF- κ B whose formation is modulated by TNF α (Perkins) or PMA (Perkins). *Id.* All of these complexes include the Sp1 protein, which comprises a naturally-occurring Cys2-His2 zinc finger binding domain.

By contrast, claim 34 is drawn to a switching system in which the first or second polypeptide comprises a non-naturally occurring Cys2-His2 zinc finger binding domain. None of the references disclose proteins comprising such non-naturally occurring Cys2-His2 zinc finger binding domains and, accordingly, withdrawal of this rejection is respectfully requested.

CONCLUSION

Applicant submits that the claims are in condition for allowance and request early notification to that effect. If the Examiner has any further issues or wishes to discuss any of the foregoing, he is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Respectfully submitted,

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